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To: Central Facsimile Number

From: Bob Santandrea

ATTN: Examiner M. A. Anderson **Attorney Docket No.** RD-26,623-1

Group Art Unit: 1765

Fax: 703-872-9306

Pages including this sheet: 3

Phone: 571-272-1459

Date: February 24, 2004

Re: Provisional Election With Traverse for Application 09/683,659

• Comments:

Examiner Anderson,

A Provisional Election With Traverse for Application 09/683,659 is attached. Please contact me at 518-387-6304 if you have any questions or suggestions.

Thank you for your consideration.

Bob Santandrea

Serial No. 09/683,659

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I hereby certify that this paper is being Facsimile transmitted
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(Date of Deposit)Mark Philip D'Evelyn et al.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Mark Philip D'Evelyn et al. :

Serial No.: 09/683,659

: Group Art Unit: 1765

Filed: January 31, 2002

: Examiner: Matthew A. Anderson

For: HIGH TEMPERATURE HIGH
PRESSURE CAPSULE FOR
PROCESSING MATERIALS IN
SUPERCRITICAL FLUIDS

: In response to Paper No.: 01284

PROVISIONAL ELECTION WITH TRAVERSECommissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

Applicants appreciate the consideration shown by the Office, as evidenced by the Restriction Requirement mailed on February 17, 2004. In that Restriction Requirement, the Examiner required an election between Group I (Claims 1-80), Group II (Claims 81-87), Group III (Claims 88-92), Group IV (Claim 93), and Group V (Claim 94). Accordingly, Applicants provisionally elect Group I (Claims 1-80), with traverse.

Applicants submit that MPEP §803 explicitly states: "If the search and examination of the entire application can be made without serious burden, the examiner *must* examine it on the merits even though it includes claims to independent or distinct inventions." Applicants submit

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that the search and examination of a capsule (as claimed in Group I), methods of filling (as claimed in Group II) and sealing (as claimed in Group III) the capsule claimed in Group I, an apparatus (as claimed in Group IV) for sealing the capsule claimed in Group I, and a material grown (as claimed in Group V) in the capsule claimed in Group I do *not* impose a serious burden upon the Examiner, and that the entire application should be examined on the merits.

In light of the remarks presented herein, Applicants respectfully submit that the criteria for requiring restriction have not been met, and respectfully request that the Examiner withdraw the Restriction Requirement. If, however, any issues remain unresolved, the Examiner is invited to telephone the Applicants' attorney at the number provided below.

Respectfully submitted,



Robert P. Santandrea

Counsel for Applicants

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Schenectady, New York

February 24, 2004